

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

MATTHEW JOHN MATAGRANO,

Plaintiff

NOTICE OF MOTION

FOR CHANGE OF VENUE

- against -

28 U.S.C. Section 1404

REGINA MILES, et al;

Defendants.

DS CV 1459 (DNH) (RFT)

PLEASE TAKE NOTICE that, plaintiff, Matthew John Matagrano, having been duly sworn to the 20th day of April 2007, will move this Honorable Court before Hon. Randolph F. Treece, United States Magistrate Judge on the 29th day of May, 2007 at the UNITED STATES COURTHOUSE 100 S. Clinton Street, P.O. Box 7367 Syracuse, N.Y. 13261-7367, at 10:00 a.m. or soon thereafter as movant may be heard for an Order pursuant to Title 28 U.S.C. Section 1404 (a) changing venue of this action to the United States District Court for the Southern District of New York and assign this action to Hon. Robert W. Sweet, U.S.D.J.

And For such other and Further relief as the Court deems just and proper.

Dated: April 20, 2007

Alden, N.Y.

Respectfully Submitted,

Matthew John Matagrano
Matthew John Matagrano
Plaintiff Pro-Se
Wende Correctional Facility
3040 WENDE RD. P.O. Box 1187
Alden, N.Y. 14004-1187

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

MATTHEW JOHN MATAGRANO,

Plaintiff,

AFFIDAVIT

- against -

IN SUPPORT

REGINA MILES, et al,

05-CV-1459 (DNH) (RFT)

Defendant(s).

STATE OF NEW YORK)

SS:

COUNTY OF ERSE)

I, Matthew John Matagrano, having been First duly sworn to the 20th day of April, 2007, deposes and says that:

1. I am the pro-se plaintiff herein and am familiar with all the proceedings previously had herein.

2. I make this affidavit in support of plaintiff's Motion for Change of Venue to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. Section 1404 (a), and the Consent Decree in Clarkson v. Goord, 91 cv 1792 (RWS) before the Hon. Robert W. Sweet, U.S.D.J. of the S.D.N.Y.

3. On March 27, 2007, plaintiff in a good faith effort requested defense counsel to consider consenting to change of venue to the Southern District of New York. (Attached hereto as Exhibit A is said correspondence.)

4. Plaintiff has alleged that defendant's are in contempt of the Clarkson Consent Decree, to which plaintiff is a class member.

5. In the Second Amended Complaint the plaintiff herein alleged defendant's violated his rights under Title II of the Americans with Disabilities Act of 1990; and Section 504 of the Rehabilitation Act of 1973.


6. The changing of venue in this action will not unduly burden the defendants, and will serve the interests of justice.

7. No prior request for a change of venue has previous been made herein.

W H E R E F O R E , plaintiff respectfully requests that the Court issue an Order pursuant to 28 U.S.C. Section 1404 (a) to change venue of this action to the United States District Court for the Southern District of New York assigning this action to the Hon. Robert W. Sweet, U.S.D.J. in the interest of justice. And for such other relief as this Court deems just and proper.

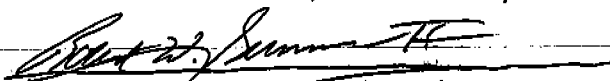
Dated: April 20, 2007
Alden, N. Y.

~~Respectfully Submitted~~


Matthew John Matagrano
04A5883 Plaintiff Pro-Se
Wende Correctional Facility
3040 Wende Rd. P.O. Box 1187
Alden, N.Y. 14004-1187

Sworn to before me

this 20th day of April, 2007


NOTARY PUBLIC

Robert W. Summers II
Notary Public, State of New York
Qualified in Erie County
Commission Expires April 02, 2011

Matthew John Matagrano
04A5583
Wende Correctional Facility
3046 Wende Rd. P.O. Box 1187
Alden, New York, 14604-1187

March 26, 2007

Senta B. Siuda
Assistant Attorney General
Syracuse Regional Office
615 Erie Blvd. West, Suite 102
Syracuse, N.Y. 13204

Re: Matagrano v. Miles, et al;
N.D.N.Y. 05-cv-1459 (DNH) (RFT)

Dear Assistant Attorney General Siuda:

I am writing to inquire if defendants will consent to a change of venue pursuant to 28 U.S.C. 1404 (a) to the Southern District of New York. I would request that the above action be assigned to the Hon. Robert W. Sweet, U.S.D.J. in accord with Clarkson v. Goord, S.D.N.Y. 91-cv 1792 (RWS); Figueras v. Dean, S.D.N.Y. 99-cv 12457 (RWS); and Degrat-Finreid v. Ricks, S.D.N.Y. 03-cv-6645 (RWS).

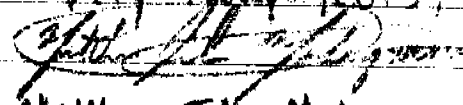
As you are aware, the Second Amended Complaint in the above referenced action allegations are made that defendant's violated the rights of plaintiff as guaranteed by Title II of the Americans with Disabilities Act

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OF 1990; and Section 504 of the Rehabilitation Act of 1973. In 1996 a Federal Consent decree was issued by Judge Sweet in Clarkson v. Goord, SDNY 91-cv-1792 (RWS) concerning the rights of deaf/hard of hearing persons in the custody of the Department of Correctional Services, And the Office of Mental Health at Central New York Psychiatric Center. I believe that defendant's are in Contempt of the Consent judgment and ask defendants to consent to a change of venue pursuant to paragraph 52 of the Consent judgment. As required by Judge Sweet's Order in Clarkson v. Goord, S.D.N.Y. 91-CV-1792 (RWS) [Civ dkt entry # 126] I have exhausted my remedies with the Ombudsperson, Mr. Robert Raymond, ADA Coordinator for the Department of Correctional Services.

On February 19, 2007, I was advised by class counsel that I am a Clarkson Class member and that Hon. Judge Sweet presided over the original 'Clarkson' proceedings. Thank you for your consideration in this matter. I remain;

Very Truly Yours,

 Matthew John Matagrano
 Plaintiff Pro-se

cc: file

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

: s.s.:

05-cv-1459 (DHH)(RIT)

COUNTY OF ERIE)

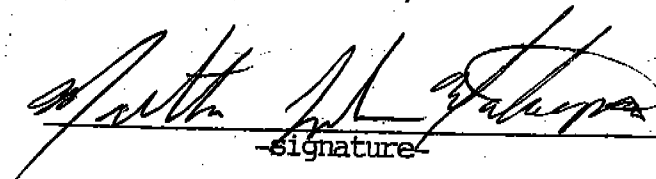
I, Matthew John Malagrew, being duly sworn deposes and says:

1. I am over 18 years of age and reside at the Wende Correctional Facility, located at 3622 Wende Road, Alden, New York, 14004-1187.

2. On the 20 day of April, 20 07, I placed and submitted a true and exact copy of the within documents which consists of : NOTICE OF MOTION TO CHANGE VENUE, SUPPORTING AFFIDAVIT AND EXHIBIT, in a properly sealed post paid wrapper and deposited same in an official depository under the exclusive care and control of the United States Postal Services, within the State of New York Department of Correctional Services, addressed to the following parties:

Senta B. Siuda
Assistant Attorney General
Syracuse Regional Office
615 Erie Blvd West Suite 102
Syracuse, N.Y. 13204

Respectfully submitted,


signature

Sworn to before me this

20th day of April, 20 07


-NOTARY PUBLIC-

Robert W. Summers II
Notary Public, State of New York
Qualified in Erie County
Commission Expires April 02, 20 11